

ORIGINAL

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)Hazlehurst, Utica and)
Vicksburg, Mississippi)Flora and Kings, Mississippi)
and Newellton, Louisiana)

MM Docket No. 93-158

RM-8239

MM Docket No. 91-131

RM-7702, RM-7840, RM-7841

To: Chief, Mass Media Bureau

Reply Comments

Crossroads Communications, Inc. ("Crossroads"), permittee of Station WXFJ(FM), Flora, Mississippi, by its attorney and pursuant to Rule 1.415, submits the following Reply Comments in MM Docket No. 93-158.^v

I. Interest of Crossroads

1. On July 23, 1993, Crossroads filed a Petition for Extraordinary Relief ("Petition") in both of the captioned proceedings. In that Petition, Crossroads explained that, in MM Docket No. 91-131, the Commission up-graded Station WXFJ(FM) from a Class A to a Class C3 Channel. The petitioner in MM Docket No. 93-158, St. Pe' Broadcasting, had submitted an FM allocation

^v Notice of Proposed Rule Making, released June 16, 1993, 58 Fed. Reg. 34025, June 23, 1993.

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proposal in MM Docket No. 91-131 which was mutually exclusive with Crossroads' proposal therein. When the Commission granted Crossroads' proposal and denied St. Pe's proposal, St. Pe' filed a Petition for Reconsideration of the action in MM Docket No. 91-131, upgrading Station WXFJ(FM) to a C3 Channel². That Petition for Reconsideration is still pending; it would be rendered moot by grant of St. Pe's proposal in MM Docket No. 93-158.

Crossroads is thus a party in interest in both captioned proceedings.

II. The Commission Should Grant Crossroads'
Petition for Extraordinary Relief.

2. Crossroads again urges that the Commission promptly take either of the alternative courses of action which it urged in its July 23, 1993 Petition. Grant of that relief is clearly warranted for the reasons set forth therein. In particular, it would serve the public interest by enabling Crossroads to move ahead with construction of Station WXFJ(FM) as a Class C3 facility.

² Crossroads argues in its Petition that St. Pe's December 14, 1992 Petition for Rule Making should have been treated as a modification of the pending Petition for Reconsideration which should have been acted upon in MM Docket No. 97-131. Crossroads further argues that the Commission should not have commenced MM Docket No. 93-158. Crossroads continues to maintain those positions. Its filing of these Reply Comments in MM Docket No. 93-158 does not represent an abandonment of those arguments.

III. Donald Brady's Comments Should
Be Rejected as Untimely.

3. The comments in MM Docket No. 93-158 of Donald B. Brady ("Brady") are untimely and should be summarily rejected without consideration. Brady asserts in a letter transmitting his comments to the Commission that they were "timely filed on 8/9/93". However, Brady's filing bears the date-stamp of the Commission's Secretary indicating that it was received August 10, 1993. While Commission Rule 1.52 permits the filing of facsimile copies of pleadings in rulemakings, it does not permit the untimely filing of such facsimiles. Brady's comments should, therefore, be rejected as untimely.

4. Rejection of Brady's filing is especially warranted in view of the repeated emphasis in Commission Rule 1.420(g)(1) and (2) upon "timely filed" expressions of interest.

IV. Competing Expressions of Interest in
Channel 265 C3 Should not be Accepted.

5. Commission Rule 1.420(g)(3) applies by its terms to license modifications involving a mutually exclusive, higher class adjacent or co-channel. However, Paragraph 24 of the Commission's Report and Order in MM Docket No. 85-313' adopting Rule 1.420(g) makes clear that competing expressions of interest will not be entertained in situations otherwise involving mutually exclusive channel exchanges. Here, the allocation of Channel 265C3 to Utica is possible only because St. Pe' proposes

to exchange its existing Channel 225A for Channel 265A as it is presently used by Station WMDC-FM, Hazlehurst, Mississippi. In these circumstances, competing expressions of interest are not to be entertained under Rule 1.420(g).

V. Conclusion

Crossroads urges that the Commission take either of the two courses of action described in its referenced Petition for Extraordinary Relief so as to permit Crossroads to move ahead promptly with its now long-authorized construction of Station WXFJ(FM) on Channel 247C3 at Flora.

Respectfully submitted,

CROSSROADS COMMUNICATIONS, INC.

By 

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August 24, 1993


CERTIFICATE OF SERVICE

I, Georgia L. Duckworth, hereby certify that a copy of the foregoing "Reply Comments" of Crossroads Communications, Inc. was forwarded via first class U.S. mail, postage prepaid, this 24th day of August, 1993, to each of the following:

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